

Minutes
Health Services
and
Development Agency
September 28, 2005
Meeting

AGENCY MEMBERS PRESENT

Atchley, Bryan, Vice Chair
Coile, Kristin, designee for the Commissioner of Commerce and Insurance
Handorf, Charles, M.D.
Hickey, J.D., M.D., TennCare Director
Koella, Carl, III,
Lammert, Gregory
Troy, Peggy
Weaver, Faye, designee for the Comptroller of the Treasury

AGENCY MEMBERS ABSENT

Caldwell, Gene, M.D., Chairman

AGENCY STAFF PRESENT

Hill, Melanie, Executive Director
Bobbitt, Melissa, Administrative Services Assistant II
Brogden, Reid, General Counsel
Christoffersen, Jim, Deputy General Counsel
Craighead, Alecia, Statistical Analyst III
Farber, Mark, Assistant Executive Director
Finchum, Rhonda, Office Manager
Grimm, Jeff, Health Planner III
Wells, Phil, Health Planner III

GUESTS PRESENT

Anderson, Kristen, Baker, Donelson, Bearman, Caldwell & Berkowitz
Anderson, Rogers, Mayor, Williamson County
Auton, Ashley B., Area Director, Personal Care Choices
Bach, Carol Ann, Vanderbilt Stallworth Rehabilitation Hospital
Baker, E. Graham, Esq., Weeks, Anderson, & Baker
Barnes, Jonathan, Administrator, Maxim Healthcare Services
Becker, Daniel J., M.D., Diagnostic Imaging, PC
Belyer, Peggy, Vanderbilt Stallworth Rehabilitation Hospital
Benton, Tony, Gateway Medical Center
Biggs, Jeremy, Vice President, Planning & Development, St. Mary's Health System
Bissell, Randy, East Tennessee Heart Consultants
Bolian, George, M.D., Medical Director, Vanderbilt Psychiatric Hospital
Bolton, Keith A., President, Specialty Surgery Centers of America
Brent, Michael D., Esq., Boulton, Cummings, Conners & Berry
Brown, Dere, NHC
Brown, Ike, Williamson Medical Center

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Bunch, Jimm, Tennessee Christian Medical Center
 Carobene, Joseph W., Deputy Commissioner, Department of Mental Health
 Cober, Karen, Administrator, Medical Center Home Care Service
 Cochran, Betty
 Cochran, Sheila, Priority Home Health
 Collier, David, M.D., designee for the TennCare Director
 Corritore, Danell, Department of Health
 Cross, Ann, CEO, Vanderbilt Psychiatric Hospital
 Culp, Joe, Department of Health
 Delph, Benjamin, Bass, Berry & Sims
 Dietrich, Mike, Tennessee Hospital Association
 Dobbs, Tracy, M.D., Tennessee Cancer Specialists
 Douglass, Terry, PhD, Chairman, ProVision Healthcare
 DuBois, Mary Lou, Lifecare Partners
 Duncan, Bruce, NHC
 Elrod, Dan H., Esq., Miller & Martin
 Evans, Ray, Smoky Mountain Home Health and Home HealthCare of Middle Tennessee
 Faber, Julie, Vanderbilt University Medical Center
 Ford, Jayne, Smoky Mountain Home Health
 Gilmore, Bruce, Middle Tennessee Mental Health Institute
 Gorman, Tom, M.D, Medical Director, Emergency Department, Williamson Medical Center
 Green, Annette, Home Health Care of Middle Tennessee
 Grisby, Cindy, Smoky Mountain Home Health
 Gromes, John, Turner
 Halsey, Laurie, Covenant Health
 Hand, Jeff, Maxim Healthcare
 Headley, Ricky, Sheriff, Williamson County
 Heath, Susan, CEO, Vanderbilt Stallworth Rehabilitation Hospital
 Hickman, Janet, Diagnostic Imaging, PC
 Hill, Ronald, Vice President, Vanderbilt University Medical Center
 Houchin, Barbara, St. Thomas Health System
 Howard, Fran, Assistant Administrator, Continuous Care Services
 Huddleston, Barton West, M.D., CEO, Nashville Rehabilitation Hospital
 Hyde, Freda, Interim Healthcare of East Tennessee
 Jinks, Pamela, Morristown-Hamblen Home Health and Hospice
 Johnson, Phillip B., Covenant Health
 Kalinowski, Deborah, Regional Director of Clinical Services, Maxim Healthcare Services
 King, Cindy, Maxim Healthcare
 Klein, Rodger, COO, Williamson Medical Center
 Lambaugh, Lynn, Vanderbilt Stallworth Rehabilitation Hospital
 Lee, Kevin D., President, SeniorHealth, Inc.
 Little, Rob, The HealthField Group
 Littrell, Wes, Vanderbilt Medical Center
 Lodge, J. Richard, Esq., Bass, Berry & Sims
 Looney, Kim Harvey, Esq., Waller, Lansden, Dortch & Davis
 Locker, Richard, Reporter, The Commercial Appeal
 Maples, Arthur, Baptist Memorial Health System
 Merville, LaDonna, Hospital Alliance of Tennessee
 Miller, Tom, Mayor, City of Franklin
 Mills, Thom, Administrator, Quality Home Health
 Moe, Joleen, RN, DON, HealthSouth Surgery Center
 Murdic, Deborah, CNO, Williamson Medical Center
 Murphy, Deanne, The HealthField Group
 Naron, Houston, Chairman, Williamson County Commission
 Nelson, Nancy
 Noe, Kim, LPN Clinical Coordinator, Interim HealthCare of East Tennessee
 Penny, Linda, Comptroller's Office
 Peterson, Anita, Centennial Medical Center
 Phillips, Brantly, Bass, Berry & Sims
 Poling, Becki, Department of Mental Health/Developmental Disabilities
 Portela, Joyce, Tennessee Christian Medical Center

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Potts, Kevin Michael, Area Director, Personal Care Choices
Puri, Chris, Tennessee Health Care Association
Richardson, Leslie, Vanderbilt Stallworth Rehabilitation Hospital
Richardson, Mike, Vice President, Planning, Covenant Health
Roberts, Anne, Priority Healthcare
Roberts, Jessica, CT Tech, St. Mary's Hospital
Roberts, Shannon, Vanderbilt Stallworth Rehabilitation Hospital
Sargent, Rep. Charles, Tennessee House of Representatives
Slate, Sonny, Department of Mental Health/Developmental Disabilities
Smith, Jeremy, Maxim Healthcare
Smith, Phyllis, Morristown-Hamblen Home Health and Hospice
Stallworth, Catherine, Centennial Medical Center
Starkweather, Keith, M.D.
Stephenson, Kate, Trauger, Ney & Tuke
Story, Shelli, Centennial Medical Center
Sylvia, John, Director, Baptist Health Systems of East Tennessee
Taylor, Jerry W., Esq., Farris, Mathews, Branam, Bobango, Hellen & Dunlap, PLC
Thomas, Gary, Vice President, University of Tennessee Medical Center
Toler, Winnie, Bureau of TennCare
Trauger, Byron, Esq., Trauger, Ney & Tuke
Tuggle, Brian K., President, Personal Care Choices
Tuggle, Kimberly B., CEO, Personal Care Choices
Tyler, Cynthia Clark, Esq., Memphis Mental Health Institute
Ventura, Larry, CEO, Memphis Mental Health Institute
Vosel, Jeff, Vice President, SeniorHealth Corporation
Walters, Kevin, The Tennessean
Wellborn, John L., Development Support Group
West, William H., Esq., Baker, Donelson, Bearman, Caldwell & Berkowitz
Wood, Betsy, Tennessee Hospital Association
Young, Charles, Esq., Kramer, Rayson, Leake, Rodgers & Morgan

Vice-Chairman Atchley called the meeting to order at 8:30 a.m. in the Main Auditorium of the Bell South Tower, Nashville, Tennessee.

DIRECTOR'S ANNOUNCEMENTS

Melanie Hill, Executive Director, made general announcements and stated that the October Agency meeting will be held at BellSouth Tower, and the November and December Agency meetings will be held at the Gaylord Entertainment Center.

CONSENT CALENDAR

Ms. Hill summarized the following Consent Calendar applications:

Tennessee Endoscopy Center - (Maryville, Blount County) - Project No. CN0507-056

The relocation of an existing ambulatory surgical treatment center (ASTC) from 1706 East Lamar Alexander Parkway, Maryville (Blount County) to 602 Smithview Drive, Maryville (Blount County), TN 37803 and the expansion from three (3) to five (5) operating/procedure rooms. Project Cost \$4,109,555.00.

John Wellborn, Consultant, representing the applicant, and Chad Veal, Vice President, were present to address the Agency.

Mr. Koella moved for approval of the project based on: 1) Need – The need is clearly there with the population growth in the county and the excess utilization statistics before and after these rooms are added. This project would increase from three (3) to five (5) procedure rooms and move the location; 2) Economic Feasibility – The project is economically feasible with the loan; and 3) The project does contribute to the orderly development of adequate and effective health care with the participation in TennCare and the licensing. Dr. Handorf seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Coile, Troy, Lammert, Atchley, Koella, Handorf, Weaver, Hickey
NAY: None

Ms. Troy and Dr. Handorf recused.

Memphis Mental Health Institute - (Memphis, Shelby County) - Project No. CN0507-062

The relocation and replacement of the adult psychiatric facility from 865 Poplar Avenue, Memphis (Shelby County), Tennessee, to 951 Court, Memphis (Shelby County), Tennessee. Memphis Mental Health Institute (MMHI) will decrease the beds from one hundred thirty-five (135) to one hundred-eleven (111) licensed beds. Project Cost \$26,796,200.00.

Cynthia Clark Tyler, Esq., representing the applicant, addressed the Agency. Present in support were: Larry Ventura, CEO and Joseph W. Carobene, Deputy Commissioner.

Mr. Lammert moved for approval of the project based on: 1) Need – The need criteria is met; 2) Economic Feasibility – The project is economically feasible and backed by the State; and 3) The project does contribute to the orderly development of adequate and effective health care. Ms. Coile seconded the motion. The motion CARRIED [6-0-0].

APPROVED

AYE: Coile, Lammert, Atchley, Koella, Weaver, Hickey
NAY: None

CERTIFICATE OF NEED APPLICATIONS

Mr. Farber summarized the following CON applications:

Personal Care Choices - (Maryville, Blount County) - Project No. CN0504-026

The establishment of a home care organization providing home health aide services in Blount, Claiborne, Cocke, Grainger, Greene, Hamblen, Hawkins, Jefferson, Knox and Sevier counties. Parent office will be located at 320 South Court Street, Maryville (Blount County), TN. Project Cost \$85,850.00.

Brian Tuggle, President, addressed the Agency. Present in support were: Kevin Potts, Area Director; and Ashley B. Auton, Area Director.

Speaking in opposition of the project were: Dan H. Elrod, Esq., representing Interim Healthcare of East Tennessee; Charles E. Young, Esq., representing, Baptist Home Care & Morristown-Hamblen Home Health & Hospice; Sheila Cochran, Priority Home Health; Thom Mills, Administrator, Quality Home Health; Ray Evans, Smoky Mountain Home Health; and Karen Cober, Administrator, Medical Center Home Care Service. Present in opposition were: Kim Noe, Interim Healthcare; and Bruce Duncan, Vice President, NHC Corporation.

Kimberly B. Tuggle, CEO, rebutted.

Mr. Lammert moved for denial of the project based on: 1) Need – There does not appear to be a need present in the ten (10) county area with the current providers that are there; 2) Economic Feasibility – The project's economical feasibility is questioned with what's happening with TennCare and based upon the applicant's own assertions of their numbers; and 3) The project does not contribute to the orderly development of adequate and effective health care in this area. Dr. Handorf seconded the motion. The motion CARRIED [8-0-0]. **DENIED**

AYE: Coile, Troy, Lammert, Koella, Handorf, Weaver, Hickey, Atchley
NAY: None

SeniorHealth of Tennessee, L.L.C. - (Franklin, Williamson County) - Project No. CN0505-038

The construction and establishment of a ninety-one (91) bed general hospital providing inpatient and outpatient services on property adjacent to and owned by Williamson Medical Center. The services provided and the bed complement are as follows: twelve (12) medical detoxification beds; fourteen (14) geriatric psychiatry beds; thirty (30) adult psychiatry beds; and thirty-five (35) inpatient rehabilitation beds. Project Cost \$33,000,000.00.

William H. West, Esq., representing the applicant, and Kevin D. Lee, President, addressed the Agency. Speaking on behalf of the project were: Deborah Murdic, CNO; Rogers Anderson, Mayor, Williamson County; Tom Miller, Mayor, City of Franklin; Tom Gorman, M.D, Medical Director, Emergency Department, Williamson Medical Center; Honorable Charles Sargent, Tennessee House of Representatives; and Ricky Headley, Sheriff of Williamson County. Present in support: Rodger Klein, COO, Williamson Medical Center; Ike Brown, Williamson Medical Center; Rene Lim, M.D., Medical

Director, Hospitalist Program; Jeff Vosel, Vice President, SeniorHealth Corporation; and Joyce Portela, Tennessee Christian Medical Center.

Speaking in opposition of the project were: Jerry W. Taylor, Esq., representing Centennial Medical Center, Horizon Medical Center, Skyline Medical Center and Summit Medical Center; Barton West Huddleston, M.D., CEO, Nashville Rehabilitation Hospital; Dan H. Elrod, Esq., representing Vanderbilt University Medical Center, Vanderbilt Psychiatric Hospital & Vanderbilt Stallworth Rehabilitation Hospital and NHC; Byron Trauger, Esq., representing Tennessee Christian Medical Center and Vanderbilt Stallworth Rehabilitation Hospital; and Ann Cross, CEO, Vanderbilt Psychiatric Hospital. Present in opposition were: Bruce Duncan, NHC; Susan Health, CEO, Vanderbilt Stallworth Rehabilitation Hospital; George Bolian, M.D., Medical Director, Vanderbilt Psychiatric Hospital; Ronald Hill, Vice President, Vanderbilt University Medical Center; and Michael D. Brent, Esq., representing Nashville Rehabilitation Hospital.

Joseph W. Carobene, Deputy Commissioner, Department of Mental Health, responded to questions by the Agency members.

Mr. West rebutted.

Dr. Hickey moved for denial of the project based on: 1) Need – The project is not necessary; 2) Economic Feasibility – The economical feasibility is not an issue; and 3) The project does not contribute to the orderly development of adequate and effective health care as it does not have a positive impact from the State's health care system. Ms. Troy seconded the motion. The motion CARRIED [6-1-1]. **DENIED**

AYE: Troy, Lammert, Handorf, Weaver, Hickey, Atchley

NAY: Coile

ABSTAINED: Koella

Mr. Lammert Recused.

Maxim Healthcare Services - Nashville - (Nashville, Davidson County) - Project No. CN0506-045

The establishment of a home care organization to provide non-Medicare home health care services for pediatric, adult, and geriatric populations in Cheatham, Davidson, Dickson, Montgomery, Robertson, Rutherford, Sumner, Williamson and Wilson counties. The parent office is located at 2416 Hillsboro Road, Suite 208, Nashville (Davidson County), TN 37212. Project Cost \$304,277.00.

Byron Trauger, Esq., representing the applicant, and Jonathan Barnes, Administrator, addressed the Agency. Speaking in support of the project were: Nancy Nelson; Betty Cochran; Cindy King, Maxim Healthcare. Present in support: Deborah Kalinowski, Regional Director of Clinical Services.

Speaking in opposition of the project were: Ray Evans, Home HealthCare of Middle Tennessee; William H. West, Esq., representing Amedisys Home Health and Amedisys Home Health of Middle Tennessee; Fran Howard, Assistant Administrator, Continuous Care Services; and Annette Green, Home Health Care of Middle Tennessee.

Mr. Trauger rebutted.

Mr. Koella moved for approval of the project based on: 1) Need – The need is there for the medically fragile pediatric patient population; 2) Economic Feasibility – The project is economically feasible and cash reserves are available; and 3) The project does contribute to the orderly development of adequate and effective health care as they are licensed and they are willing to work with the TennCare network as needed. **CONDITION: Limited to private duty nursing.** Ms. Troy seconded the motion. The motion CARRIED [4-3-0]. **APPROVED**

AYE: Coile, Troy, Lammert, Koella, Atchley

NAY: Handorf, Weaver, Hickey

Maxim Healthcare Services - Knoxville - (Knoxville, Knox County) - Project No. CN0506-047

The addition of Blount, Claiborne, Cocke, Grainger, Hamblen, Jefferson, Monroe, Sevier and Union counties to the existing service area of Maxim Healthcare Services–Knoxville. The agency currently provides home health services in Knox, Loudon, Anderson, Campbell, Scott, Morgan and Roane counties. The parent office is located at 7417 Kingston Pike, Suite 105, Knoxville (Knox County), TN 37919 Project Cost \$135,000.00.

DEFERRED TO THE DECEMBER MEETING

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Ms. Troy left meeting.

Dr. Handorf Recused.

Diagnostic Imaging Professional Corporation - (Memphis, Shelby County) - Project No. CN0506-050

The relocation of the magnetic resonance imaging (MRI) service from 1068 Cresthaven Road, Suite 100, to 6401 Poplar Avenue, Memphis (Shelby County), TN 38119. After relocating a replacement MRI scanner and other radiological equipment will be acquired. The physicians' office will continue to provide MRI, CT, ultrasound, mammography, nuclear medicine, and radiographic/fluoroscopy services. No other physician groups or healthcare institutions are involved in this project. The MRI service is being relocated due to the relocation of the physicians' practice. Project Cost \$3,034,273.00.

William H. West, Esq., representing the applicant, addressed the Agency. Speaking on behalf of the project was Daniel J. Becker, M.D.

Mr. Koella moved for approval of the project based on: 1) Need – The need is there to serve the existing patients in a different building; 2) Economic Feasibility – The project is economically feasible through the commercial loan; and 3) The project does contribute to the orderly development of adequate and effective health care since they are licensed and a TennCare participant. Ms. Coile seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Coile, Lammert, Koella, Weaver, Hickey, Atchley

NAY: None

Mid-South ENT Surgery Center - (Cordova, Shelby County) - Project No. CN0506-051

The establishment of a single-specialty ambulatory surgical treatment center (ASTC) limited to the patients of the practice for otorhinolaryngology procedures. The ASTC will have two (2) operating rooms and one (1) procedure room. Project Cost \$4,280,456.00.

DEFERRED TO THE OCTOBER MEETING

Clarksville Surgery Center - (Clarksville, Montgomery County) - Project No. CN0506-052

The replacement and relocation of the currently licensed ambulatory surgical treatment center (ASTC) from 1734 Memorial Drive, Clarksville (Montgomery County), TN to a two (2) acre tract (not addressed) on the North side of Hornbuckle Lane, Clarksville (Montgomery County), TN. The ASTC will increase space from 3,108 SF to 12,679 SF, operating rooms will increase from two (2) to three (3) rooms, and procedure rooms will increase from zero (0) to two (2) rooms. There will be no change in the covered services offered. Project Cost \$3,108,606.00.

Keith A. Bolton, President, Specialty Surgery Center, and Jerry W. Taylor, Esq., representing the applicant, addressed the Agency. Dr. Keith Starkweather spoke on behalf of the project.

Speaking in opposition of the project were: Dan H. Elrod, Esq., representing Gateway Medical Center; Byron Trauger, Esq., representing HSC Surgical Associates of Clarksville, LP; and Joleen Moe, RN, DON, HealthSouth Surgery Center. Present in opposition was: Tony Benton, Gateway Medical Center.

Mr. Taylor rebutted.

Dr. Handorf moved for approval of the project based on: 1) Need – The need is established both with current overcrowding in the facility and the projected future growth; 2) Economic Feasibility – The project is economically feasible based on facility lease and commercial loan being in place; and 3) The project does contribute to the orderly development of adequate and effective health care as they are a TennCare participant and their licenses are in place. Ms. Weaver seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

AYE: Coile, Lammert, Koella, Handorf, Weaver, Hickey, Atchley

NAY: None

East Tennessee Imaging Center - (Knoxville, Knox County) - Project No. CN0506-053

The establishment of an outpatient diagnostic center (ODC), the initiation of positron emission tomography (PET) services and the acquisition of a combination PET/CT (computerized tomography) unit. Project Cost \$4,051,902.00.

J. Richard Lodge, Esq., representing the applicant, addressed the Agency. Speaking on behalf of the project were: Tracy Dobbs, M.D., Tennessee Cancer Specialists; and Terry Douglass, PhD, Chairman, ProVision Healthcare; Speaking in support were: Randy Bissell, East Tennessee Heart Consultants; and John Sylvia, Director, Baptist Health Systems of East Tennessee. Present in support: Cindy Reisz, Esq.; and Charles Young, Esq., Kramer, Rayson, Leake, Rodgers and Morgan; Mary Lou DuBois, LifeCare Partners

Speaking in opposition of the project were: Jerry Taylor, Esq., representing St. Mary's Health System and University of Tennessee Medical Center; Dan Elrod, Esq., representing Covenant Health. Present in opposition: Mike Richardson, Vice President, Planning, Covenant Health; Phillip B. Johnson, Covenant Health; Gary Thomas, Vice President, University of Tennessee Medical Center; Jeremy Biggs, Vice President, Planning & Development, St. Mary's Health System; Jessica Roberts, CT Tech, St. Mary's Hospital; Norman Majors, Sr. VP/CAO, University of Tennessee Medical Center; and Laurie Halsey, Covenant Health; and W. Brantley Phillips, Jr., Esq.

Mr. Lodge rebutted.

Ms. Coile moved for approval of the project based on: 1) Need – The need is demonstrated by exceeding the Guidelines for Growth; 2) Economic Feasibility – The project is economically feasible by the cash reserves and the leases; and 3) The project does contribute to the orderly development of adequate and effective health care as it is supported by the largest groups of physicians specifically the oncologists and the cardiologists in the region. Mr. Koella seconded the motion. The motion FAILED [3-4-0]. The Certificate of Need was therefore **DENIED**.

AYE: Coile, Koella, Atchley

NAY: Lammert, Handorf, Weaver, Hickey

East Tennessee Heart Consultants, P.C. - (Knoxville, Knox County) - Project No. CN0506-055

The acquisition of major medical equipment (computerized tomography). There will be no construction in the installation of this new equipment, although minor site preparation will be involved. No other new services or new major medical equipment will be added. Project Cost \$1,583,537.96

WITHDRAWN

GENERAL COUNSEL'S REPORT

Reid Brogden summarized the following modification requests:

Nashville Outpatient Cardiac Center - (Nashville, Davidson County) - Project No. CN0304-025A

Request for extension of expiration date from October 1, 2005 to October 1, 2006. This project was approved on August 27, 2003 for the establishment of an outpatient cardiac catheterization facility with one (1) laboratory and the initiation of cardiac catheterization services in a newly constructed medical office building.

Jerry W. Taylor, Esq., representing the applicant, addressed the Agency.

Ms. Weaver moved for approval of the request with the caveat that the Certificate of Need will be surrendered if not completed in one year. Mr. Lammert seconded the motion. **CONDITION: The applicant voluntarily agrees to surrender the Certificate of Need if the project is not complete in one (1) year.** The motion CARRIED [8-0-0]. **APPROVED**

AYE: Coile, Lammert, Koella, Handorf, Weaver, Hickey, Atchley

NAY: None

CURRENT REPORTS

Statistical Reports

The reports were accepted into the record.

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Finance, Ways and Means Committee Reports

The reports were accepted into the record.

Minutes

Mr. Koella moved for approval of the minutes of the August 24, 2005, meeting as presented. Mr. Lammert seconded the motion. The motion CARRIED [7-0-0]. **APPROVED**

ADJOURNMENT

There being no further business, the meeting adjourned.

Melanie M. Hill, Executive Director

MMH/MAB